App. F. IX-4

1929.

File No. 105-29

Previous References

Serial Nos. 1-4

Later References

General and Revenue Secretariat.

Serial Nos. 4

Part B for November 1930

SUBJECT

Filing a suit in the civil Court on behalf of Sri Kandaswamy Swami temple at Sirab, in respect of certain Kandaswamy lands in the Khatk of the temple.

Dr 1179 dated 24.11.30.

To the Govt. Counsel

Needful legal action may be taken

G. R. S. APP F.III—1] 1929.

GENERAL AND REVENUE SECRETARIAT.

(Inwards)

NOTES.

File No. 105 / 1929

FILE HEADING.

Lease of certain Kandayam Cauls in the Taluk of Sri° Rangapatna Swamy temple at Sokali

FROM

The Dy C.

Letter No. 2062 Dated 12-9-29 Received

Diary No.	Enclos.	Spare copies	Serial No
443		—	1

BRIEF ABSTRACT OF LETTER

Reports that the Sub Divl officer's finding in the case is that a suit should be filed in the civil Court on behalf of the inam for ejectment of the tenants in case they do not agree to pay fair rents to the temple who is the real owner of the property in question and requests [illegible] Secy's orders in the matter [illegible]

NOTES AND ORDERS.

1) In the linked file no 449—1928 relating to the amendment of the Mysore

NOTES—First Sheet.

App. F. [III—2]

General and Revenue Secretariat.

File No. 105 of 1929.

Serial No.

(Detached) & Submitted to HE Member 4/11/29

Religious and Charitable Institutions Regn of 1927, this Comr is refd to in the last para of page 10 of the office note containing the financial Secy's remarks. The Member has ordered the submission of this file in the first week of November next. and his orders are awaited.

The Sub. Divl officer's finding refers to a number of exhibits relied upon by the parties, and the file of records stated to have been sent by the M.C., have not been received.

- DO calling for records, is submitted for appl.

30/10/29

1/11/29

2 To

H - Issue cmn
- to 7/6 of 6-11-29
Requisition to send the entire records pertaining to the case for perusal

NOTE—Contn. sheet.

WD 066—GPB—30,000—26-7-29

1082/930

264

General and Revenue Secretariat | Mus. File No. 105 | App. F. III—2] of 1929-30.

Serial No.

83
Law

Letter no: 2062 dated 21.8.30.
From the Mus. Commr.

Submits the entire file of vernacular records in the matter of leasing out the kandayam lands in the khata of Sri Ranganatha Swamy temple.

2. The facts of the case are clearly explained by the S.D.O. in his formal enquiry Conducted by him. (vide Pg: 4.).

3. May the file be referred to the Legal Remembrancer for favour of his opinion as to the Course Suggested by the local officers.? For Land orders.

4. The L.R may be consulted as desired by the Mysore Revenue Secretary.

2998/10.9

7.9.30

Legal Remembrancer) 11/9/30

O. No. P 23/30
Dated 24.9.1930

GOVT. ADVOCATE'S OFFICE SEPT 1930 BANGALORE

Mus 258/30-31
25.9.30

5. Forwarded, with confidential file to the Government Advocate for favour of opinion & early return.

Mark. D.
Legal Rr. Secy to G
Law Dept

Note—Contn Sheet

WD 01684—GPB—30,000—20 4-29

Serial No.

Yo 24/30 31
7 8 11 30

Re-transmitted with compliments.

9 In this case the questions for determination are as follows :-

1) Whether there is no provision in the Revenue or Muzrai law under which summary eviction could be ordered in respect of temple lands - (that is, against tenants who refuse to pay a fair rent for the temple lands in their possession).

2) If there is no such provision as above, whether their eviction could be effectuated only through a civil court.

10 In this case it may be taken for granted that the Sri Ranganatha Swami Temple can fairly establish in a court of law that it is the superior holder of the lands and that the persons now in possession hold the same as tenants under it. This being so, there can be no question that the relationship of landlord and tenant as between the temple and the petitioners is established.

11 Section 10 of the Mysore Religious and Charitable Institutions Regulation (VII of 1927) and both the provisos to it are not applicable to the facts of the present case. Sections 9 and 10 do not apply to this case because the possession of the petitioners of the temple lands goes backwards to 130 years or so, that is, long anterior to the enactment of this Regulation. As regards provisos to Section 10, the first one clearly cannot apply because in the Chief Commissioner's Notification dated 17th November 1877, the nature of the

Note—Contn. Sheet

WD 01684—GPB—30,000—20-4-29

General and Revenue Secretariat | File No. 105 of 1929

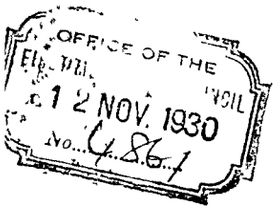
Serial No.

of the alienation contemplated is entirely different from the one which in any case may have to be -- postulated as between the Temple and the petitioners in the present instance. As regards proviso 2, the question of adverse possession which is referred to in the Sub Division Officer's Order dated 11-5-1929 is one which has to be, in the light of that order itself, held to be not to have been made out by the petitioners. That is one of the unproved positions taken up by the petitioners such as absolute ownership, kadim tenancy etc., In any case, their claim of adverse possession cannot in the light of the rents proved to have been paid by the petitioners to the temple, be urged with any hope of success in a court of law. Thus the only relationship that could in the circumstances mentioned in the order be held to subsist between the temple and the petitioners is one of landlord and tenant. In the absence of a special law governing cases of this nature, the only law applicable is the one governing landlords and tenants. It could in the present case be established that there is a tenancy within the meaning of Section 79 of the Land Revenue Code as between the temple and the petitioners. If that be so, the saving clause in that Section as regards enhancement of rent, or services renderable or eviction of tenants for non-payment of rent or for non-rendering of services would seem to apply As there is no express provision in the Code for the summary

Note -Contn. Sheet

WD 02328- GPB —10,000—22 4-30

summary eviction in such cases and as there is no special law for it as is contemplated in Section 117 of the Transfer of Property Regulation, the ordinary law as to eviction must apply. The temple in the present case should accordingly seek its remedy in a Civil Court. (Vide Section 79, 'Saving Clause' read with Section 222, Clause (c)).



K. Ramachandra Rao
Government Advocate.

CSN/8-11-30.

12) Draft orders
1st Member P.M. 11/11

13) Yes. Needful legal action may be taken. This is very outrageous.
CSN
17/11
P.M.
18/11

14) D/N submitted
18/11
CSN
Please put up a typed draft
VS
19.11.30

15) Typed D/N submitted.
19/11
Law Secy
VS
19.11.30

16) Issue
VS
20.11.30

WD 01684—GPB—30,000—20-4-29

General and Revenue Secretariat — Mucz — File No. 105 E — of 1929-30 — App. F. III—2]

Serial No.	
4	No 1179 of 24.11.30 to the Muzrai Commissioner forwarding copy of the legal opinion in the matter of filing a Suit in respect of certain kandayam lands in the Khata of the Sri Ramanatha Swami Temple at Sonada and stating that necessary action may be taken

Note—Contn. Sheet

WD 02328—GPB—10,000—22 4-30

File No .of 192

General
Secret

Serial
No.

Note–Contn. Sheet

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore,.....12th September. 1929

13

No. 2062 Rm 3 copies
28-9-29 filed

D-463

Muz 240-24-11

105-27-1

SECRETARIAT
14 SEP 1929
MUZRAI
LIBRARY
No 3863

FROM

A. K. Syed Taj Peeran, Esq., B.A.,
The Muzrai Commissioner in Mysore

To

P. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of His
Highness the Maharaja of Mysore,
Financial Department.

SIR,

Adverting to Government Order No.654/Muz.240-24-11 dated -- 26th November 1925 remanding for fresh enquiry and disposal according to law the question of the ownership of certain Kandayam lands in the khata of the Sri Rangaratnaswami temple at Sorab, I have the honor to forward herewith copies of letters Nos.Muz.1.A.C.358 of -- 26-27 and No.Mis.1.C.1284 of 28-29 dated 25th May 1929 and 23rd -- August 1929 respectively from the Deputy Commissioner Shimoga District together with a copy of the Sub Division Officer's finding in Rev. mis. case No.8 of 25-26 to the effect that a suit should be filed in the civil court on behalf of the institution for eviction of the -- tenants in case they do not agree to pay fair rents to the temple -- which is the real owner of the property in question. In the subsequent report it is stated by the Sub Division Officer that in spite of the persuasion of the tenants to take up leases of the lands for reasonable rates they persisted in holding the lands either as full owners or not at all and that the only course left open for the temple is to sue them in civil court for eviction. The Deputy Commissioner ---- agrees with the views of the Sub Division Officer. I request that you will be so good as to obtain the views of the Law Secretary in -- the matter of adopting the course suggested by the local officers.

The connected files on the subject are herewith sent for ----

for reference and kind return.

I have however called for a report from the Sub Division Officer as to whether the tenants cannot be induced to come to terms in to payment of reasonable rents. I shall submit a further repo the matter after receipt of the records from the Sub Division Of Sagar.

"C o p y"

For Muzrai Commissioner.

Letter No.Muz.1.C.2384/28-29 dated 23rd August 1929 from the Deputy Commissioner, Shimoga District to the Muzrai Commissioner in Mysore.

Sri Ranganathaswami temple-Sorab-dispute re: certain Kandayam lands in its khate at Hiresakuna village.

In continuation of this office No.Muz.1 A.C.358/26-27 dated 25-5-29 re the above I have the honor to forward herewith in original a report No. C.55/29-30 dated 17-7-1929 from the Sub Division Officer, Sagar, stating that though he persuaded the tenants to agree to take up leases of the lands for reasonable rates they persisted in holding the said lands either as full owners or not at all. As they are not prepared to come to any terms, the Sub Division Officer states that the only course open for the temple is to sue them in civil court for eviction. I request that in the circumstances sanction of Government may kindly be obtained for proceeding against the tenants in a proper court of Law, since there is no rule of Law either under the Land Revenue Code or under the Muzrai Regulation or the authority of which the recalcitrant tenants can be summarily ousted from their long possession, the lands in question being Kandayam only. If necessary, the Legal Remembrancer to Government may also be consulted.

I solicit the favour of very early orders as the temple is -- likely to sustair much loss from further delay. I enclose herewin for favour of persual a copy of the Sub Division Officer's finding in Rev.Mis.case No.8/25-26.

"C o p y"

For Mazrai Commissioner.

Copy of letter No.Rev.No.Mis.8/25-26 dated 11th May 1929 from the Sub Division Officer, Sagar Sub Division to the Deputy Commissioner Shimoga District.

With reference to your memo No.R.Dis.86/25-26 ~~xxxx~~ on H.C.276/24-25 dated the 15th December 1925 forwarding for further needful action copy of Government memo No.645/Muz.240-24-11 dated the 26th November -- 1925 remanding for fresh enquiry and disposal according to law, the -- question of the ownership of certain Kandayam lands in the Khate of the temple of Sri Ranganatha devaru at Sorab, I have the honor to state that after an elaborate enquiry, orders were passed on 6-5-1929. The following are the most important findings recorded in the case (Rev.Mis.case no.8/25-26.)

1. The temple is the real owner of the lands in question and the - petitioners Panduranga Phatta, Srinivasachar and others are its tenants.

2. The tenancy is not a permanent one but in view of long possession however, fair rents can be fixed if the temple and the tenants agree.

3. If the petitioners refuse to agree to the fixing of a fair rent, it is open to the temple to sue for their eviction in a Civil Court as there

there is no provision of law under which summary eviction could ordered in respect of kandayam lands. A copy of the judgment be sent separately.

"C o p y"

For Muzrai Commissioner.

From the Sub Division Officer, Sagar.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/ M.N.Bala Raj Urs.

Offg Deputy Commissioner,

Shimoga District.

2204

G.R.N.

Copy forwarded to the Sub Division Officer, Sagar Sub Division for a detailed report with records after needful enquiry. He will kindly send words to the parties and ~~inform~~ inform them to come to an amicable settlement.

26/5

M. N. Balaraj

Offg Deputy Commissioner,

Shimoga District.

Personal Enquiry.
Sagar
mrs
26/5

No C 55 / 24-25

Submitted letter dy. cmr. With ref. to the above letter I met the disputants at Sagar yesterday and discussed with them the desirability of fixing fair rents and of giving them long leases say of 10-15 years in view of their long possession of lands by them. I explained to them the two alternatives open to the Temple according to the present findings viz. either to evict them by bringing civil suits against them or to give the lands to the respective disputants for such reasonable rent as can be fixed and granting long leases; and told them as to which the former course was the best for all concerned. All of them on the whole stated that they were told the lands as full owners at one time. One of them viz. Srinivasachar wanted to know if they could be declared as permanent tenants which I explained was not possible under the Mysore Regulation. They stated their intention of taking up the question of ownership in appeal again and to that end they have already obtained a copy of the findings arrived at in the case. As they are not prepared to come to any terms with the Temple the only course open to the Temple is to proceed against them for eviction in civil court. I believe there is a strong case for the Temple. The lands in question are valuable and as any more delay may prejudice the rights of the Temple in ~~the~~ COMMISSIONER'S COURT ~~and case the disputants cease to be~~ I request the favour of ~~send~~ send orders on the question of bringing civil suits against the disputants.

N. Madhava Rao
16.7.1929.

(460)
28/29

COMMISSIONER'S COURT
16 JUL 1929
SHIMOGA

No. Muzl.A.C. 358/26-27. Office of the Deputy Commr

Shimoga District,

Dated, Shimoga the 25th May 1929

From

M.N.Bala Raj Urs, Esquire, B.A.,

Offg Deputy Commissioner, SHIMOGA DISTRICT.

To

P.G.D'Souza, Esquire, B.A., B.L.,

Muzrai Commissioner in Mysore, BANGALORE.

Sir,

RANGANATHASWAMY TEMPLE-DISPUTE RE PERMANENT TENANCY OF CERTAIN KANDAYAM LANDS BY SHANTAPPA AND OTHERS

With reference to correspondence ending with this office letter No. Muzl.A.C. 358/26-27 dated 6-6-27 re the above, I have the honour to forward herewith for favour of perusal a copy of letter No Rev. 8/25-26 dated 11-5-1929 from the Sub Division Officer, Sagar Sub Division stating in brief the result of his formal enquiry in the case as directed by Government in their order No 651 Muz 210-24-11 dated 10-11-25.

The Sub Division Officer has gone to the ~~conversion~~ conclusion that a suit should be filed on behalf of the temple for eviction of the tenants in case they do not agree to pay fair rents to the temple which is the real owner of the property in question.

2. A sum of R235/- has been paid to the Public Prosecutor as his Travelling Allowence from out of the funds of the institution. The present financial position of the temple is not sound. The matter therefore requires careful consideration before a civil suit is launched. I have however called for a report from the Sub Division Officer, Sagar as to whether the tenants cannot be induced to come to terms in regard to payment of reasonable rents. I shall submit a further report in the matter after receipt of the records from the

SUBJECT:

Section Irrig
File No. 105-29
Serial No. 2
No. 2068

Diary No. of letter replied to.....

General and Revenue Secretariat
( )
the *192*

To
The Hon'ble

Date of issue.....

Signed by.....

Sir,

Adverting to your letter No. 2062 Dy. 13th Septr 1929 requesting Law Secty's views in respect of the leasing out of certain Kandayam lands in the Khata of Sri Ranganatha Swamy temple at Srirangam I am directed to request that the entire file of the

over

List of enclosures.....

Copied by.....

Examined by .....

WD 063—GPB—20,000—1-8-29

Regret delay in this
case. Please also give date
your reference as a very
early date

(2) Have never received
birth cert. letter. Under reply
that reference in this office

I have etc

(pp) J. J. Scott,

105-29-3.

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore, 14th August *193*

29.

FINANCIAL SECRETARY
2 AUG

No. 2062 File of records
28-9.

FROM

Rajakaryapravina

P. G. D'SOUZA, ESQ., B A., B.L,

Muzrai Commissioner in Mysore

GEN. & REV. SECRETARIAT
22 AUG 1930
246
MUZRAI.

To

Rajakaryapravina
B. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of His
Highness the Maharaja of Mysore,
Financial Department.

SIR,

With reference to your letter C.916/ Miz.105-2 -2 dated 6th November 1929, I have the honor to submit herewith the entire file of vernacular records in the matter of leasing out certain Inam lands in the khata of Sri Panganathaswamy temple at Sorab received with the Shimoga Deputy Commissioner's letter C.T.C.2824 of 28-29 dated 13th August 1930 (copy enclosed.)

I have the honor to be,

Sir,

Your obedient servant,

Muzrai Commissioner.

mh.

Letter No.Muz.I.C.2234/28-29 dated 13th August 1930 from the Deputy Commissioner, Shimoga District to the Muzrai Commissioner in Mysore.

With reference to your letter No.C.2062/2 -29 dated 15th September 1929 calling for the transmission of the entire file of vernacular records on the question of leasing out certain kandayam lands in the Khata of the Sri Ranganathaswami temple at Sorab, I have the honor to submit herewith the files of records received from the Sub Division officer, Sagar Sub Division No.2-C.44-43/30-31 dated 29th July 1930 as noted in the margin.

1. R.Mis.7/35-36
2. One bundle of exhibits on behalf of temple as per list.
3. One bundle of exhibits on behalf of counter petitioner Lakshmanta and others as per list.
4. One records of 1922-23 ending with S.D.O. No.750 dated 14-4-22 relating to the alienation of S.No.180 of Hiresakuna village by Lakshmi in favour of Hyder Sab.
5. One record ending with Deputy Commissioner's No.724 dated 30-12-90 relating to the paddy due by ryots of Ranganathaswami temple in Hiresakuna village.
6. Records relating to the Archaka due to Ranganathaswami temple ending with S.D.C. No.C.873/24-25 dated 20-2-25.

"Copy"

For Muzrai Commissioner.

Typed 8th

1179 —

Dmls. 105 — 29-4 records D. 24.11.30.

To

The Muz. Commr. in Mysore.

Sir,

With reference to correspondence ending with your letter No. 2062/28-29 dated 21-8-30 in the matter of filing a suit in the Civil Court on behalf of Sri Ranganathaswami temple at Sorab, in respect of certain Kandayam lands in the Khate of the temple, I am directed to enclose herewith copy of the legal opinion in the matter and to state that needful legal action may be taken.

The entire records on the subject received from your Office are herewith returned.

I have &c.,

19.11.30

Law Secy. to Govt.

1914

C.R.G.

U.O. Note No. 24 of 1930-31 dated 8th Nov. 1930 from Government Advocate, in Muz. File No. 105 of 1929.

In this case the questions for determination are as follows:-

1. Whether there is no provision in the Revenue or Muzrai law under which summary eviction could be ordered in respect of temple lands (that is, against tenants who refuse to pay a fair rent for the temple lands in their possession).

2. If there is no such provision as above, whether their eviction could be effectuated only through a Civil Court.

In this case it may be taken for granted that the Sri Ranganatha Swami temple can fairly establish in a Court of Law that it is the superior holder of the lands and that the persons now in possession hold thesame as tenants under it. This being so, there can be no question that the relationship of landlord and tenant as between the temple and the petitioners is established.

Section 10 of the Mysore Religious and Charitable Institutions Regulation (VII of 1927) and both the provisos to it are not applicable to the facts of the present case. Sections 9 and 10 do not apply to this case, because the possession of the petitioners of the temple lands goes backwards to 130 years or so, that it, long anterior to the enactment of this Regulation. As regards provisos to Section 10, the first one clearly cannot apply because in the Chief Commissioner's Notification dated 17th November 1877, the nature of the alienation contemplated is entirely different from the one which in any case may have to be postulated as between the temple and the petitioners in the present instance. As regards proviso 2, the question of adverse possession which is referred to ~~kk~~ in the Sub-Division Officer's Order dated 11-5-1929 is one which has to be, in the light of that order itself, held to be not to have been made out by the petitioners. That is one of the unproved positions taken up by the petitioners such as absolute ownership, kadim tenancy &c. In any case, their claim of adverse possession cannot in the light of the

rents proved to have been paid by the petitioners to the temple, be urged with any hope of success in a court of Law. Thus the only relationship that could in the circumstances mentioned in the order be held to subsist between the temple and the petitioners is one of landlord and tenant. In the absence of a special law governing cases of this nature, the only law applicable is the one governing landlords and tenants. It could in the present case be established that there is a tenancy within the meaning of Section 79 of the Land Revenue Code as between the temple and the petitioners. If that be so, the saving clause in that Section as regards enhancement of rent, or services renderable or eviction of tenants for non-payment of rent or for non-rendering of services would seem to apply. As there is no express provision in the Code for the summary eviction in such cases and as there is no special law for it as is contemplated in Section 117 of the Transfer of Property Regulation, the ordinary law as to eviction must apply. The temple in the present case should accordingly seek its remedy in a Civil Court. (Vide Section 79, 'Saving Clause' read with Section 222 Clause 6.)

---

* C O P Y *

Superintendent, Muzrai Branch.

C.R.G.2